

AMENDED IN ASSEMBLY AUGUST 18, 2000

AMENDED IN ASSEMBLY AUGUST 10, 2000

AMENDED IN ASSEMBLY AUGUST 16, 1999

AMENDED IN SENATE APRIL 21, 1999

SENATE BILL

No. 353

Introduced by Senator Johannessen

(Coauthors: Senators Bowen, McPherson, and Morrow)

(Coauthors: Assembly Members Bates, *Kuehl*, Leach, Longville, Margett, Oller, Pescetti, *Shelley*, *Villaraigosa*, and Zettel)

February 10, 1999

An act to add Article 4.6 (commencing with Section 14146) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to health, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 353, as amended, Johannessen. Medi-Cal: residential care facility services.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services.

This bill would require the department to develop a demonstration project to test the efficacy of providing an assisted living benefit to eligible low-income beneficiaries

under the Medi-Cal program, to the extent of federal financial participation.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of
2 the following:

3 (a) Consumer demands that long-term care services
4 be designed to match individual needs, maximize
5 independence, and prevent institutionalization are
6 causing changes in the long-term care industry. The
7 reimbursement scheme continues to be focused on
8 hospitals and institutions, despite the rise in home-based
9 services and widespread need for noninstitutional
10 services.

11 (b) Medi-Cal reimburses skilled nursing facilities at
12 the rate of \$2,500 per month. Residential care facilities for
13 the elderly on average cost between \$1,000 and \$1,800 per
14 month. Seventy percent of seniors in skilled nursing
15 facilities are funded by the Medi-Cal program. The
16 California Little Hoover Commission has estimated that
17 at least 30 percent of seniors in skilled nursing facilities
18 could be cared for in residential care facilities for the
19 elderly. California needlessly spends millions of Medi-Cal
20 dollars by funding the most expensive care option for
21 these seniors when more affordable, less institutional care
22 options exist.

23 (c) California currently does not determine if the
24 approximately 8,000 In-Home Supportive Services
25 (IHSS) recipients who transfer each year from home to
26 skilled nursing facilities could be in residential care
27 facilities for the elderly.

28 (d) California currently does not determine how
29 many low-income seniors who need care transfer from
30 residential care facilities for the elderly into skilled
31 nursing facilities because of insufficient funds. In

1 developing their medicaid waiver, Florida found each
2 year that 3,000 seniors were forced to leave residential
3 care facilities for the elderly and go to skilled nursing
4 facilities because of this reason.

5 (e) California is unable to apply for grants offered by
6 the federal Health Care Financing Administration, most
7 recently \$500,000, by the May 1999 deadline, to develop
8 a process to transfer residents from skilled nursing
9 facilities into residential care facilities for the elderly
10 because there is no medicaid mechanism in place to pay
11 for residential care facilities for the elderly.

12 (f) The federal Health Care Financing Administration
13 actively encourages states to apply for medicaid waivers
14 and recognizes many individuals at risk of
15 institutionalization can be cared for in assisted living
16 homes, maximizing their independence and quality of life
17 at a cost no higher than institutionalization.

18 (g) The 1998 State Assisted Living Policy report by
19 Robert Mollica prepared for the National Academy of
20 State Health Policy details which states currently have a
21 medicaid waiver. California is one of the few states in the
22 nation which does not permit its medicaid program to
23 reimburse residential care facilities for the elderly.
24 Currently, 40 states allow medicaid to pay for services
25 provided in assisted living homes. States that adopt the
26 waiver find that medicaid waivers allow them to serve
27 more seniors with the same medicaid dollars.

28 (h) States with medicaid waivers for assisted living
29 homes most often allow seniors eligible for the nursing
30 home criteria to use cash benefits received under the
31 federal Supplemental Security Income program to pay
32 for the room and board costs while medicaid pays for the
33 assisted living services.

34 SEC. 2. Article 4.6 (commencing with Section 14146)
35 is added to Chapter 7 of Part 3 of Division 9 of the Welfare
36 and Institutions Code, to read:

37

Article 4.6. Assisted Living Demonstration Project

14146. The following definitions shall govern the construction of this article, unless the context requires otherwise:

(a) “Department” means the State Department of Health Services.

(b) “Residential care facility for the elderly” or “RCFE” means a facility as defined in subdivision (k) of Section 1569.2 of the Health and Safety Code.

(c) “Skilled nursing facility” or “SNF” means a facility as defined in subdivision (c) of Section 1250 of the Health and Safety Code.

14146.1. (a) The department shall develop a demonstration project to test the efficacy of providing an assisted living benefit to low-income beneficiaries under the Medi-Cal program. The department shall submit any necessary waiver applications or modifications to the medicaid state plan to the Health Care Financing Administration to implement the demonstration project, and shall implement the project only to the extent federal financial participation is available.

(b) The assisted living benefit shall be designed to provide eligible individuals with a range of services that enable them to remain in the least restrictive and most homelike environment while receiving the medical and personal care necessary to protect their health and well-being.

14146.2. Individuals who are determined by the department to be eligible for, or at risk of, placement in a nursing facility or seniors currently residing in a SNF shall be eligible for participation in the demonstration project, based on an assessment of an individual’s ability to perform functional and instrumental activities of daily living, as well as the individual’s medical diagnosis and prognosis. *In addition, in order for an individual to be eligible under the demonstration project, it shall be appropriate to place the individual in a RCFE, as determined in accordance with the guidelines contained in Title 22 of the California Code of Regulations.*

1 14146.3. An eligible individual may participate in the
2 demonstration project only if he or she is fully informed
3 of the project and the nature of the benefit and indicates
4 in writing his or her choice to participate.

5 14146.4. (a) The department shall develop the
6 demonstration project in conjunction with primary
7 stakeholders, consumers, consumer advocates, housing
8 and service providers, and experts in the fields of
9 gerontology, geriatric health, nursing services, and
10 independent living.

11 (b) To determine potential long-term savings to the
12 state, the demonstration project shall also consist of the
13 department annually sampling a statistically relevant
14 number of seniors on Medi-Cal currently residing in SNFs
15 and seniors previously receiving in-home supportive
16 services under Article 7 (commencing with Section
17 12300) of Chapter 3 who have transitioned to SNFs to
18 determine suitability for placement in ~~RCEFs~~ *RCFEs*.

19 (c) (1) The department shall evaluate the
20 effectiveness of the demonstration project.

21 (2) The evaluation shall include, but not be limited to,
22 participant satisfaction and a comparison of the
23 cost-effectiveness of the demonstration project with
24 current state programs that provide services to
25 low-income elderly and disabled persons.

26 (3) The evaluation shall estimate the projected
27 savings, if any, in the budgets of state and local
28 governments if the program was expanded statewide.

29 (4) The evaluation shall be submitted to the
30 appropriate policy and fiscal committees of the
31 Legislature on or before January 1, 2002.

32 14146.5. (a) The number of individuals, facilities, and
33 agencies participating in the demonstration project shall
34 be limited in accordance with any requirements of the
35 federal Health Care Financing Administration.

36 (b) The department shall limit the number of
37 participants in the demonstration project during the
38 initial three years of its operation to a number that will be
39 statistically significant for purposes of the program

1 evaluation and that meets any requirements of the
2 federal Health Care Financing Administration.

3 (c) The aggregate costs of benefits under the
4 demonstration project shall not exceed the average
5 monthly rate for the placement of waiver participants in
6 a skilled nursing facility.

7 SEC. 3. This act is an urgency statute necessary for the
8 immediate preservation of the public peace, health, or
9 safety within the meaning of Article IV of the
10 Constitution and shall go into immediate effect. The facts
11 constituting the necessity are:

12 In order to enable certain Medi-Cal recipients to have
13 a better quality of life and, at the same time, to realize a
14 savings in General Fund revenues, at the earliest possible
15 time, it is necessary that this act go into immediate effect.

